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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,579	05/14/2004	Lenard K. Deiterman	718220.147	3578
27128	7590	06/02/2005	EXAMINER	
BLACKWELL SANDERS PEPER MARTIN LLP			NGUYEN, TRAN N	
720 OLIVE STREET			ART UNIT	
SUITE 2400			PAPER NUMBER	
ST. LOUIS, MO 63101			2834	

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	10/709,579	DEITERMAN, LENARD K.	
	Examiner	Art Unit	
	Tran N. Nguyen	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 14-21 and 33-37 is/are allowed.
- 6) ☐ Claim(s) 1-3,8,11-13,22-24,27 and 30-32 is/are rejected.
- 7) ☐ Claim(s) 4-7,9,10,25,26,28 and 29 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>0504</u> | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. **Claims 9, 19, 25 and 28** are objected due to the following informalities:

The term “sufficient length” is relative term, it should be changed to “predetermined length”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 3, 13, 22, and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Baumann et al (US 3,761,748)** in view of **Ohishi et al (US 6,091,171)**.

Baumann discloses a drip cover (15) (fig 2) for a motor having an upper portion, an upper bearing (26) and a base (not shown), wherein the drip cover comprising:

a cover (15) having an inner surface (29) and a circumference (38);

a cylindrical skirt (32) extending axially from the circumference (38) of the cover to surround the upper portion of the motor;

a cup (B fig 2) formed on the inner surface (29b) of the cover concentrically with the skirt and sized to hold and protect the upper bearing (26) of the motor, wherein the cover has a diameter greater than the diameter of the motor (fig 2), and the cover being mounted on an spaced from the upper portion of the motor via extending part (39); and the cover having the circumference (38) (fig 2) having a shape that is generally round, i.e., tubular round shape. Regarding the preamble that the cover is for a floor polisher having motor, the motor with a drip cover can be used in any suitable of industrial application.

Baumann substantially discloses the claimed invention, except for the limitations of *a downwardly facing electrical connector attached to the inner surface of the cover within the cylindrical skirt and outside the motor.*

Ohishi, however, for the purpose of providing electrical connection for the motor to the power supply, teaches a motor with a axially downward electrical connector (3d) disposed outside the motor housing (2-3). Those skilled in the art would understand that the electrical connector facing downward and located outside the motor would facilitate the plug in of the power supply for the motor. Because Baumann already discloses the cover that provide protection for the motor, it would have been obvious to one skilled in the art to incorporate the Ohishi's connector within the inner surface of the cover which is also outside the motor for covering protection the connector therein.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the drip cover by providing a downwardly facing electrical connector attached to the inner surface of the cover within the cylindrical skirt and outside the motor, as taught by Ohishi. Doing so would provide electrical connecting means for the motor with the power supply while mechanically protect the electrical connector thereof.

3. **Claims 2, 8, 11-12, 23, 27, and 30-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Baumann** and **Ohishi**, as applied in the rejection of the base claims, and further in view of level of ordinary skills of a worker in the art.

The combination of **Baumann** and **Ohishi** refs substantially discloses the claimed invention, except for the added limitations of the listed above claims. Particularly the cover having the circumference (38) (fig 2) having a shape that is generally round, i.e., tubular round shape, as recited in claim 32.

Regarding claims 2 and 23 reciting a particular shape of the drip cover having a convex shape, those skilled in the art would understand that this is a matter of obvious engineering

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design choice based upon the size and shape of the motor as well as the size and shape of a particular device that employs the motor with the drip cover in order to ensure a proper fit of the motor and the drip cover in the device. Also, a change in size or shape is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955) (emphasis added).

Regarding claims 8 and 27, Baumann's drip cover appears to be removable, but Baumann quiets whether it is removable or not. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the drip cover so that the cover can be easily removable, as recited. Doing so would enable to replace or repair the cover and it had been held that making an old device portable or movable without producing any new and unexpected result involves only routine skill in the art. *In re Lindberg*, 93 USPQ 23 (CCPA 1952).

Regarding claims 11-12 and 30-31, Baumann does not disclose the material of the drip cover. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select a suitable material of plastic or aluminum or iron to form the drip cover, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

Claims 4-7, 9-10, 25-26, 28-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14-21 and 33-37 are allowed.

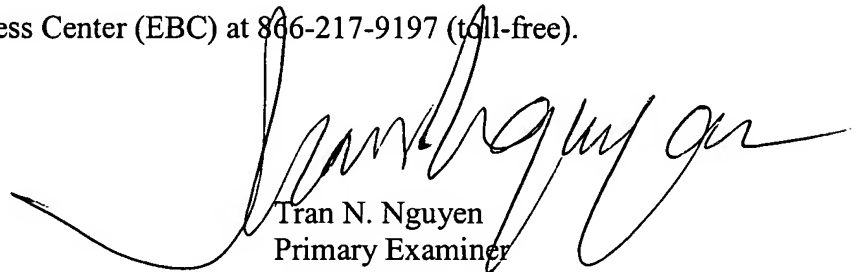
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran N. Nguyen whose telephone number is (571) 272-2030. The examiner can normally be reached on M-F 7:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on (571)-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tran N. Nguyen
Primary Examiner
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